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The Idaho Courts Annual Report For 1986

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Pendulum Swings to Judicial Discretion

SENTENCING REFORMS ACCENT JUDGES

Calendar year 1986 witnessed the most sweeping reforms in criminal sentencing in Idaho in 77 years. Not since 1909, when Idaho adopted indeterminate sentencing, had the Legislature enacted such a comprehensive change in how criminals are sentenced. A series of new statutes (and one constitutional amendment) have virtually guaranteed that criminal sentences now will mean what they say, thereby enhancing the role of the trial judge--and perhaps putting judges on the spot.

Indeterminate Sentencing And Patchwork Changes

In 1909, Idaho adopted an indeterminate sentencing system, which allowed corrections officials to determine when criminals should be released. Judges sentenced defendants to a maximum term of years, but corrections officials decided at what point during the sentence a defendant might be paroled or discharged outright. The underlying philosophy of indeterminate sentencing was that corrections professionals and sociologists would have a better idea of when a prisoner was rehabilitated, than would legislators or judges.

The basic indeterminate sentencing system remained unchanged in Idaho until the 1970's. During that decade, dissatisfaction with the criminal sentencing process led Idaho voters to adopt a constitutional amendment to allow the Legislature to set mandatory minimum sentences for certain crimes, limiting judicial discretion and the power of corrections authorities to parole offenders. A patchwork series of mandatory and enhanced sentencing statutes followed, and, although small in number, complicated the sentencing process.

Truth In Sentencing

After a year-long interim study, chaired by Senator Roger Fairchild and Representative Larry Harris, the 1986 Idaho Legislature adopted comprehensive reforms designed to achieve "truth in sentencing"--making the outcome of a sentence more likely to resemble the sentence handed down by the judge. The heart of the reforms was a new Unified Sentencing Act, which, while retaining some of the features of indeterminate sentencing, allows judges, in their discretion, to set a mandatory minimum term of imprisonment for felons. After the minimum period of incarceration is complete, corrections authorities are then free to parole or discharge defendants, depending upon whether they are a threat to society.

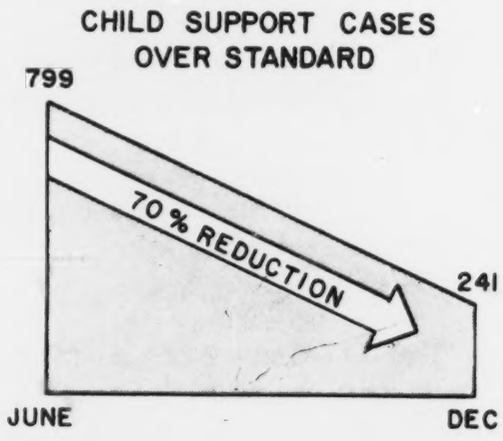
In adopting the Unified Sentencing Act, which takes effect February 1, 1987, the Legislature also repealed most

(Continued on Page 4)

CHILD SUPPORT ENFORCEMENT IMPROVED

Kids Get Support Faster

When Ada County Court Clerk Supervisor Carolyn Yocum wrote to two federally-funded attorneys for the state Bureau of Child Support in October, and warned that the Court would be forced to intercede if there were any further delays in eight pending petitions for child support, she highlighted an unusual situation for courts--while many state courts around the country are being prodded by the federal government to speed up child support enforcement actions, the federal government is having trouble keeping up with Idaho court efforts to reduce delay in getting child support payments to children.



Although it might have been isolated, the incident illustrates the lengths to which Idaho court personnel have gone to speed up child support cases. Once overlooked by the system, child support cases today comprise a significant portion of the workload for the courts. When exspouses fail to make court-ordered support payments, county prosecutors and private attorneys petition the courts to enforce payment. A

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HIGHLIGHTS

Trial Court Filings Set Record
Caseloads Rise 4.1% In 1986
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Appellate Courts Reduce Backlog
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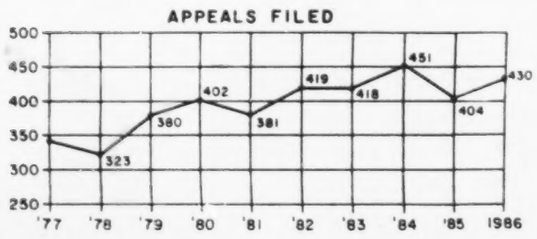
Appeals Up, Delays Down

APPELLATE COURTS REDUCE BACKLOG

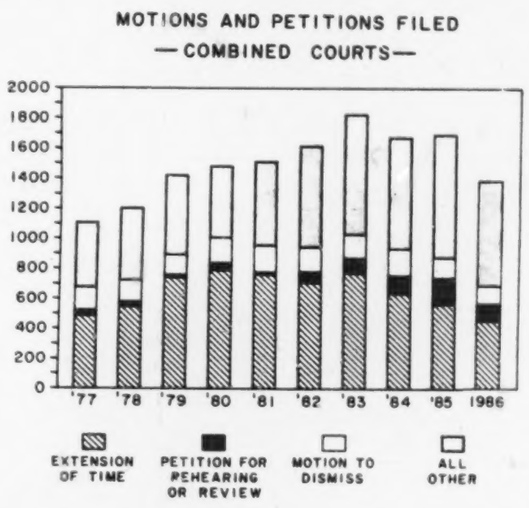
In calendar year 1986, the Idaho appellate courts continued their progress in reducing backlog. By disposing of 479 appeals, the appellate courts reduced their pending caseload to its lowest point since 1977. And, continuing recent advances, the delay in obtaining a final appellate decision has been cut by 9.7 months.

Idaho has seen a sustained growth in appellate litigation since the mid-1970's, and that growth continued in 1986. The 430 new filings reported during 1986 represent the second highest number on record, and are a 6% increase over the 404 filed in 1985.

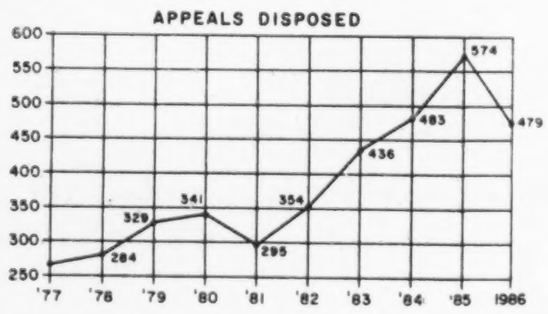


Recent research findings suggest that appellate filings lag behind business expansion by 3 to 4 years. If valid, this may indicate that the appellate courts are in for a renewed round of increases in appellate filings, as business conditions improve.

Petitions and motions decreased in 1986, but continued to be a considerable strain on Idaho's system. During 1986, 1,395 new petitions and motions were filed with the courts. The courts dealt finally with 1,379. The number of petitions and motions filed during 1986 was 24.8% less than the 1983 record total of 1,836. Also filed with the court during the year were 24 original proceedings and 13 attorney discipline matters.

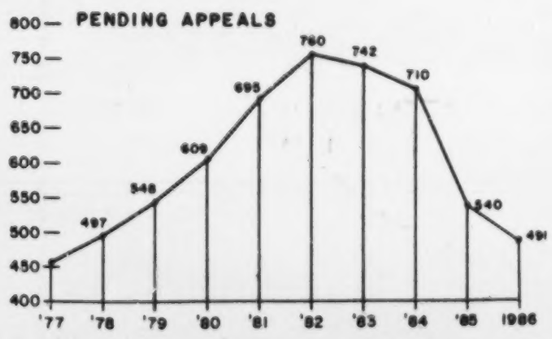


During 1986, with fewer appeals pending, the Supreme Court and Court of Appeals together disposed of 479 appeals.

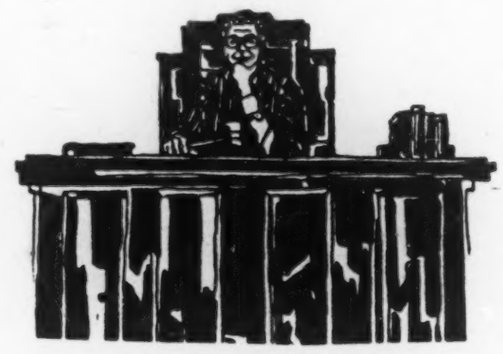


In 1986, the Supreme Court disposed of 174 appeals by majority opinions, while the Court of Appeals disposed of 168 by majority opinion.

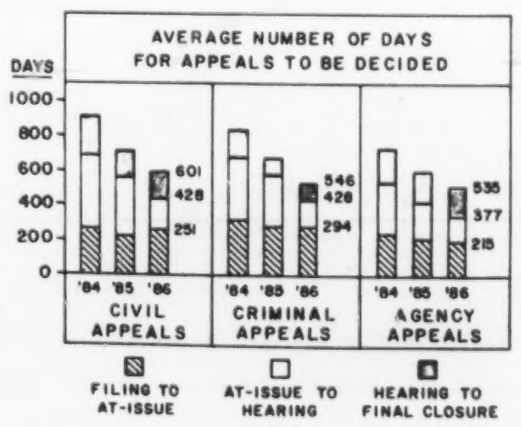
The total number of appeals pending had risen steadily and sharply in Idaho since 1974. But starting in 1983, the Supreme Court and Court of Appeals began eating away at the backlog that had been building for a decade. That trend continued in 1986, which saw a further reduction of 219 pending appeals--a 31% decline since 1984!



Raw numbers of pending appeals do not tell the whole story: the amount of time people must wait to have their appeal decided is of more importance to individual litigants, and in this statistic there has been considerable improvement.



During 1986, it took an average of 577 days from the time an appeal was filed with the Supreme Court until either the Supreme Court or Court of Appeals finally concluded its work on the case. This performance cut the appellate delay by 295 days from 1984's average time of 872 days.



Both courts are now current in hearing oral arguments, and have eliminated totally the backlog of cases awaiting hearing. Once an appeal is fully briefed and ready to be argued, both the Supreme Court and the Court of Appeals are able to set oral argument for the current term of court.

ON THE RECORD

"The well worn legal cliche, 'justice delayed is justice denied,' has apparently lingered in legal jargon--and in fact grown in recent usage--because of its inherent truth."

--Idaho Trial Lawyer President M. Jay Meyers, writing in support of the judiciary's statewide delay reduction program.

"If justice delayed is justice denied, then there's more justice in Idaho these days."

--The Associated Press, May 9, 1986.

"Trial dates are the best settlement tool in the world."

--Third District Trial Court Administrator Stephen Bouch.

"Trial court backlog--Idaho should have absolutely none!!"

--Justice Robert C. Huntley, Jr., April, 1986, The Advocate.

"Magistrates are the most important part of the court system--the public perception of the court system and of our system of justice depends on the impression that the public receives in the magistrate division."

--Former Chief Justice Charles R. Donaldson, commenting on the responsibilities of Magistrate Commissions.

THIS YEAR IN THE COURTS

NEW CHIEF JUSTICE ELECTED
Shepard Brings Experience To Top Job
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EXPERIMENTS WITH MEDIATION
Getting Outside Help Makes Better Custody And Visitation Decisions
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COMPUTERS FOR TRIAL COURTS
A Statewide Committee Is Designing A Model System
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MOST PRODUCTIVE DISTRICT JUDGE
The Busiest, Busy Judge For 1986
Page 6

4.1% Increase Statewide

TRIAL COURT FILINGS SET RECORD

While much of Idaho's resource economy is in the doldrums, court business is thriving. Calendar year 1986 saw the highest number of new cases filed in the trial courts in Idaho's history --343,171 cases.

Following a 3.5% growth rate in 1985, new cases coming into the state courts climbed by 4% in 1986, with 343,171 new trial court filings, as compared to 329,791 new filings in 1986.

Shifting Growth Patterns

During the decade of the 1970's, new cases had been filed in the Idaho courts at an almost uniform 4-5% annual increase. State officials became accustomed to predictable growth and responded accordingly, by building new courtrooms and adding more judges to accommodate heavier workloads.

The growth in trial court business had a number of contributing factors during the 1970's, including the sharp growth of Idaho's population and the increased number of attorneys admitted to practice. Between 1970 and 1980, the state's population grew by 32% from 713,015 to 943,935, and the number of attorneys almost tripled, from about 600 to 1,540.

Perhaps reflecting the economic recession, caseloads declined almost 8% in 1981 and 1982, but an improving economy coupled with the evidence of recent case filing increases may signal a return to predictable caseload increases as the dominant trend of the 1980's.

Winners And Losers

Traffic cases (not including DUI) accounted for 78.7% of the increase in trial court filings in 1986. During the calendar year, new traffic cases were up by 10,178, a 4.9% increase from 1985's 205,670 new cases.

While 1986 traffic filings did increase, they remain near or below the 1980 level, suggesting that limitations on city and county law enforcement budgets may be limiting the growth of traffic filings in the courts.

Civil filings in the district courts, rose from 5,689 new cases in 1985 to 5,732 in 1986, while civil filings in the magistrate division dropped slightly, from 47,422 to 47,359.

Idaho's small claims departments recorded a robust year, with 17,366 new complaints filed in 1986--an 3.3% increase from the 1985 total of 16,808. Although Idaho does not allow attorneys or collection agencies to file small claims, small businesses and private individuals increasingly are turning to the small claims departments as a quick, inexpensive way to collect debts.

Overall, magistrate division case filings increased by 4%, from 319,843 in 1985 to 332,772 in 1986. Other trends in the magistrate divisions: child support enforcement cases were down 21.5%; misdemeanor drug cases dropped by 9.5%.

Dispositions Up

Despite reports from trial judges that individual cases have become more complex and that the time required to dispose of individual cases has expanded, the trial courts increased their overall dispositions in 1986.

District judges and judges of the magistrate division disposed of 6.1% more cases in 1986 than in 1985, disposing of 349,806 cases during the past calendar year, as compared with 329,407 cases in 1985.

The number of cases pending in the trial courts dropped by 12.7% in 1986 from 53,573 on December 31, 1985 to 46,737 on December 31, 1986.

The average number of new cases filed for each district judge in the state in 1986 was 315 cases, while the average for judges of the magistrate division was 4,754 new cases. This compares with new case filings in the prior year of 301 per district judge and 4,569 new cases per magistrate judge. The district judges disposed of an average of 326 per judge during the year, while the judges of the magistrate division averaged 4,843 dispositions per judge, well above average filing levels.

Of the civil cases which received a final judgment in the trial courts in 1986, 26,366 or 45% were disposed of with a trial or court hearing. On the criminal side, 95.5% of these cases were disposed of through pleas or dismissals, while 12,510 or 4.5% received court or jury trial.

Magistrate Appeals

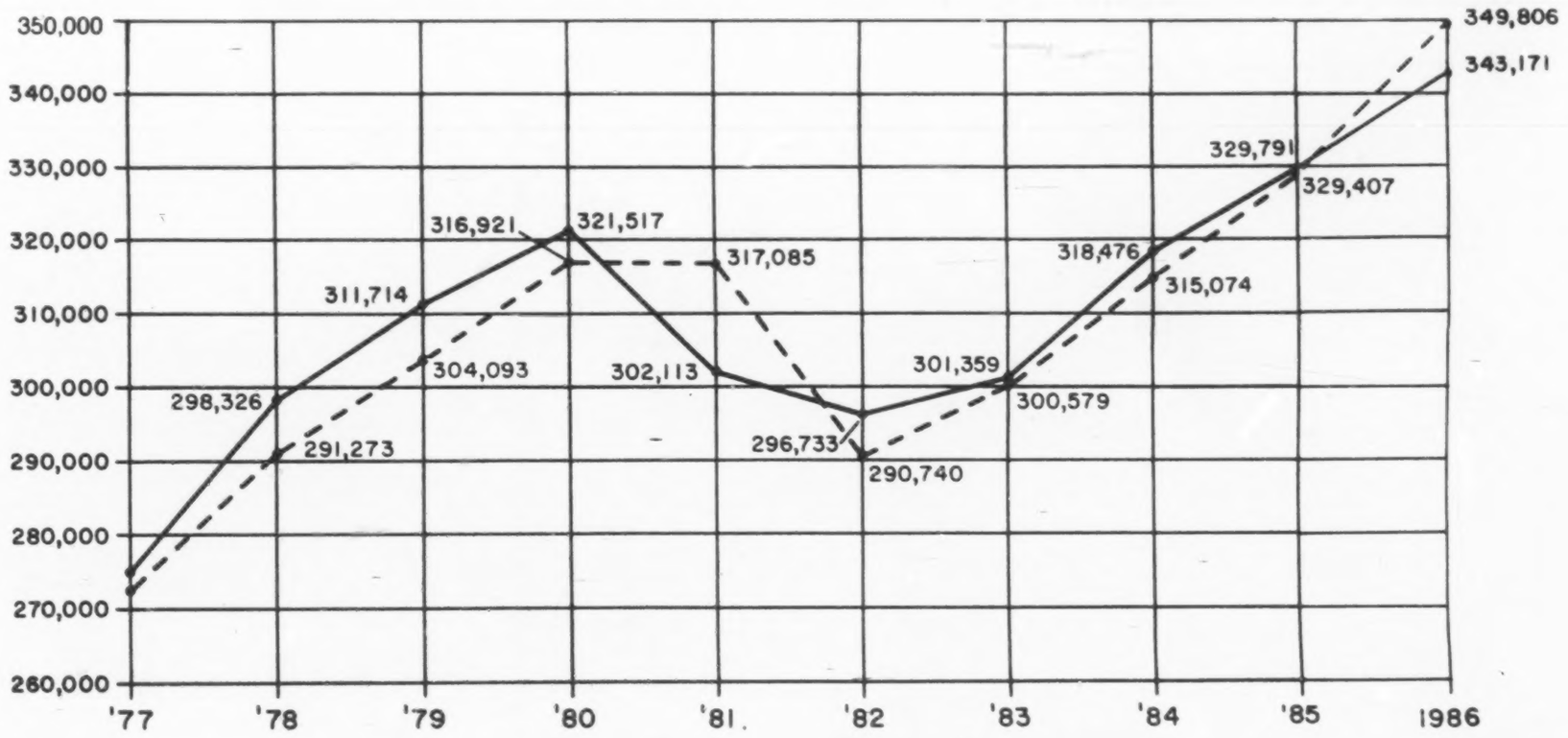
Starting in July 1985, small claims appeals were shifted from district judges to lawyer magistrates. While this change, designed to speed up the processing of small claims appeals, provided some relief to the district courts, other types of appeals from the magistrate division to the district court continued to comprise a significant workload. In 1986, the district courts received 451 non-small claims appeals from magistrate decisions, down 4.5% from the 472 non-small claims appeals filed in 1985.

District judges disposed of 610 magistrate division appeals in 1986, leaving 281 appeals pending at the end of the year.

Details Available

Upon request, interested parties may obtain from the Administrative Office of the Courts detailed summaries by case type, showing filings, dispositions, and pending cases for the district court and magistrate division statewide, by district and by county.

CASE FILINGS AND DISPOSITIONS IN TRIAL COURTS



The Idaho Courts Annual Report is published pursuant to Idaho Code § 1-612

ON BEHALF OF THE SUPREME COURT OF IDAHO
Chief Justice Allan G. Shephard

Justices: Charles R. Donaldson, Robert E. Bakes, Stephen Bistline, Robert C. Huntley, Jr.

BY THE ADMINISTRATIVE OFFICE OF THE COURTS

Carl F. Bianchi, Administrative Director of the Courts
Business Manager: Laurie Demko
Charts and Illustrations: John Peay

First Increase Since 1983

DUI REPORT: UPTURN IN NEW CASES

New drunken driving cases coming into the courts increased by almost 8% in 1986. Calendar 1986 saw DUI filings climb to 12,366, compared with 11,455 filings in 1985. Total DUI cases had been declining since the second half of 1983, and court officials were not willing to predict whether the 1986 turnaround signals a trend.

The "New" DUI Law

In 1983, the Idaho legislature passed a "tough" new law to deter drunken driving. Immediately after the new law took effect on July 1, 1983, DUI charges dropped sharply statewide, offering hope that tougher sentences were discouraging drivers from drinking. Misdemeanor DUI complaints rebounded slightly in 1984, but when adjusted for changes in the felony statutes, were still less than in pre-law (before the DUI law went into effect) days. In 1985, DUI complaints continued to decline, raising hopes that the new DUI law, coupled with educational efforts and increased law enforcement, was having an impact.

The 1986 increase raises questions about the effect of the new law.

Fewer Felonies

The new DUI law allows prosecutors to upgrade a misdemeanor to a felony only when prior DUI convictions occurred after July 1, 1983. Thus, DUI defendants who might otherwise have been prosecuted on a felony charge were given a clean slate, as of that date. As a result, the number of DUI felony complaints dropped sharply beginning on July 1, 1983, to 90 complaints in 1984, 94 in 1985, and 122 in 1986.

While it was expected that felonies would decline initially in 1984, it was also expected that they would increase again in succeeding years, as defendants accumulated multiple DUI charges. The 1986 experience bears this out.

More Trials

The number of DUI cases going to trial, which had increased from about 3% in "pre-law" days, to 12% in December of 1983, appears now to have stablized once again at about 3% of the dispositions statewide in 1986.

More Jail Time

DUI defendants continue to receive sentences of incarceration at higher rates than before the new law went into effect. While some sentences are suspended, 77.7% of the defendants who appeared before a judge for sentencing on misdemeanor DUI charges were sentenced to jail in 1986. Prior to the new DUI law only 43% of the defendants appearing before a judge received a sentence including incarceration.

Plea Bargaining

About 66.4% of the DUI defendants pled guilty to DUI charges in 1986, down 11.6% from the 78% average of defendants who pled guilty prior to the new law.

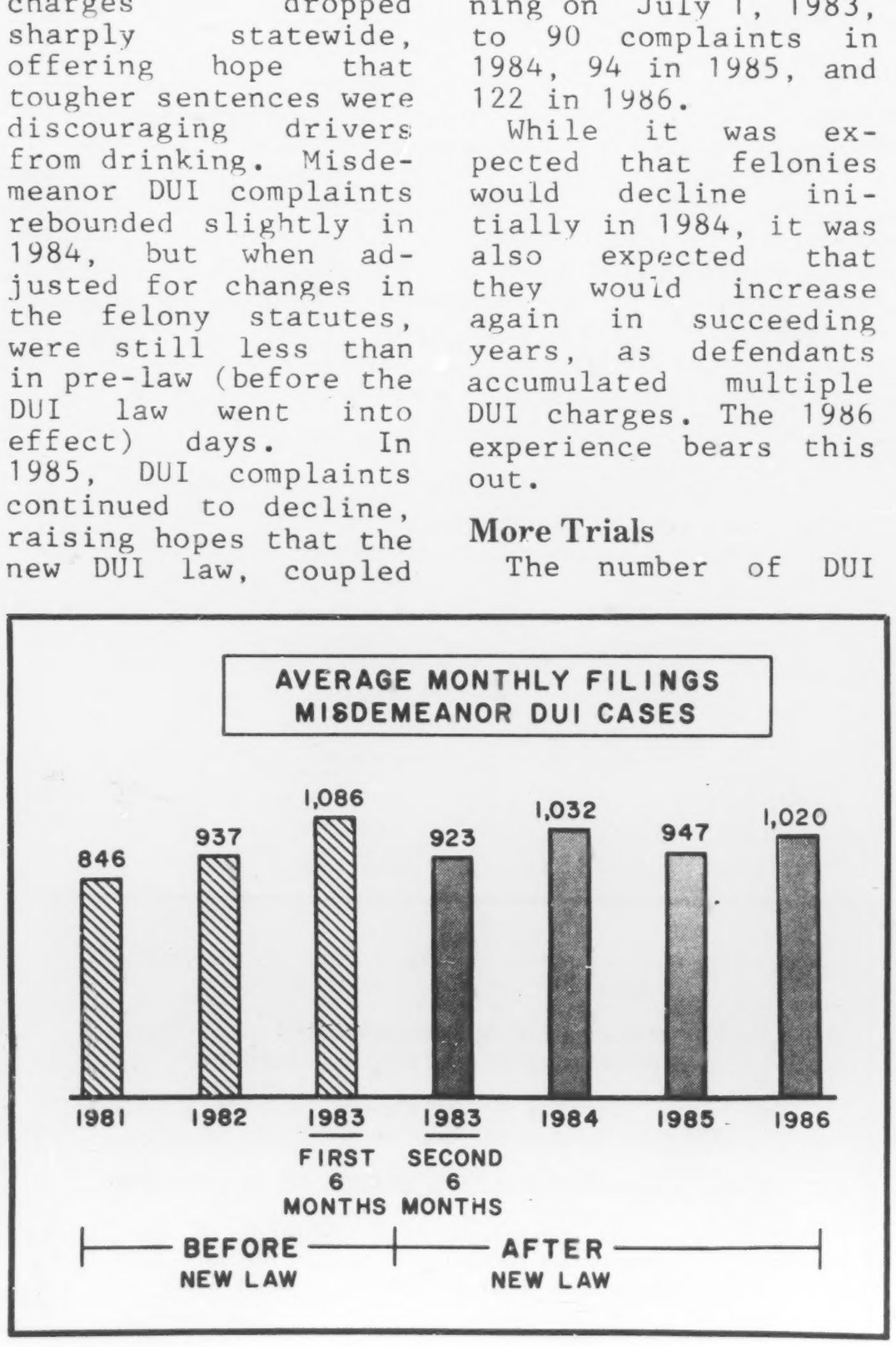
The number of defendants pleading guilty to reduced or amended charges--"plea" or "charge bargains"--appears now to have stablized at about 17% of dispositions, down from a high of 19% in December of 1983. In Ada County, the number of defendants pleading guilty to a reduced or amended charge has dropped from a high of 42.3% in December 1983, to an average of 26.3% in 1986.

Cause Uncertain

Court caseloads can be influenced by the level of law enforcement activities, which in turn can be influenced by local government budgets. Hopefully, the increase in DUI cases in 1986 is a result of more active law enforcement, and not more drinking drivers.

STATEWIDE DUI FILINGS
1975 THROUGH 1986

YEAR	FELONY	MISDEM.	TOTAL DUI
1975	223	6,288	6,511
1976	236	6,614	6,850
1977	280	7,561	7,841
1978	263	7,628	7,891
1979	321	8,234	8,555
1980	339	9,343	9,682
1981	364	10,153	10,517
1982	422	11,239	11,661
1983	515	12,054	12,569
1984	90	12,386	12,476
1985	94	11,361	11,455
1986	122	12,244	12,366



SENTENCING REFORMS . . .

(Continued from Page 1)

mandatory minimum and enhanced sentences.

No More Good Time

An important feature of the new sentencing laws was the elimination of automatic "good time," or reduction in the length of a sentence for good behavior. Finding that "good time" was awarded automatically, without regard to the behavior of a prisoner, and that good time often had the effect of reducing sentences by one-third to one-half, the Legislature abolished most forms of good time, for offenses committed after July 1, 1986. The elimination of good time, coupled with the Unified Sentencing Act's limits on parole, means that judges, prosecutors, and defense counsel no longer will have to make complicated calculations and guesses as to how much of the judge's sentence will actually have to be served.

By approving a constitutional amendment in November, Idaho voters also further limited the ability of corrections officials to change or reduce sentences through commutations or pardons, once constitutional powers of the Board of Pardons.

Judges At Center Stage

Underlying the 1986 sentencing reforms was fresh confidence on the part of the Legislature and the public in the trial judge's role in criminal sentencing. The new Unified Sentencing Act places a maximum amount of discretion in the trial judge to fashion a sentence that is both fair to the defendant, but will also provide deterrence and protection for society. This confidence in judges comes at a high price: judges will not be able to fall back on the use of lengthy, indeterminate sentences, knowing that defendants will be released long before the completion of the term. Under the new statutes, the mandatory minimum period of incarceration set by the judge will be public, understandable, and will mean what it says. With the Unified Sentencing Act set to take effect in February, judges appear more than ready to shoulder the additional responsibilities and pressures of the new law.

COMMITTEE PLANS MODEL COMPUTER SYSTEM FOR TRIAL COURTS

Since the early 1970's, Idaho has been a leader in court automation. A statewide computer information system--CLASS--spearheaded by Justice Charles R. Donaldson was one of the first in the nation to produce automated reports on the status of every trial court case. It is this system which today enables Idaho judges to monitor their caseloads and compare their progress against national time standards.

In the mid-70's, the judiciary automated all of its appellate court operations, producing what is still today the best computerized appellate court information system in the country. But the Idaho judiciary--along with most other court systems--has lacked a comprehensive, statewide computerized system which would automate the day-to-day operations and clerical functions in the trial courts. In 1986, the court system took the first step toward filling that gap.

In 1986, a special blue ribbon committee consisting of district court clerks, judges, and court administrators began meeting to plan the development of a model trial court information system. The Committee was given an ambitious agenda: to take as much time as necessary, but to develop the software for a model system, which could be implemented in each of Idaho's 44 counties. Tapped to chair the Committee was Fifth District Judge William Hart, whose residence county, Minidoka, was selected as the future pilot site for development.

The Committee was asked to identify the needs of an automated system which would operate independently within county government. At the heart of the system would be an automated register of action, which would log all of the steps of a case into the computer for later retrieval. Such a system would be capable of storing and retrieving needed court records, preparing computerized notices to attorneys, as well as bench warrants, subpoenas and summonses; preparing accounting records on court fees and fines, as well as monitoring time payments; and preparing personalized calendar management reports for individual judges, including status conference lists, pretrial and trial calendars.

So far, the Model Trial Court Information System Committee has studied existing computerized systems in the states of Washington, Utah, and Michigan, and other state systems will be examined in the near future. During the summer of 1987, the Committee will recommend guidelines for a detailed system design and programming of modules for testing in Minidoka County.

While it might take two to three years to develop a model computerized system, Committee members are confident that it can be done. As Committee member Leslie Irwin, Valley County Clerk of the District Court, puts it: "The entire Committee projects a 'can do' attitude. The project is that needed light at the end of the tunnel for Valley County."

MODEL TRIAL COURT INFORMATION SYSTEM COMMITTEE

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Hon. Don Swanstrom
Ms. Diana Meyer
Hon. Ron Schilling
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Ms. Betty McMurphy
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All four channels record simultaneously to capture every voice even when several speakers talk at once.
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Begins Four-Year Term

SHEPARD ELECTED CHIEF JUSTICE

The Chief Justice might change, but the policies will be the same. That was the message of Idaho's new Chief Justice, Allan G. Shepard. Elected by the other Justices of the Supreme Court on December 12, 1986, Shepard stated, "My goal will be to continue the policies and efforts of Chief Justice Donaldson who brought Idaho's judicial system to its position of fourth best in the nation in management and organization. Idaho is now a leader in the nation in reduction of delays in court process and jury management."

Under a constitutional amendment approved in November 1982, the Chief Justice is elected for a four-year term by majority vote of the Justices of the Idaho Supreme Court. (See inset.) The first elected Chief Justice, Justice Charles R. Donaldson, served as Chief Justice from 1983 through 1986.

ARTICLE 5, SECTION 6 IDAHO CONSTITUTION

...The chief justice shall be selected from among the justices of the Supreme Court by a majority vote of the justices. His term of office shall be four years. When a vacancy in the office of chief justice occurs, a chief justice shall be selected for a full four year term. The chief justice shall be the executive head of the judicial system.

Chief Justice Shepard, an 18-year veteran of the Supreme Court, brings vast experience to the office of Chief Justice, and is unique in Idaho history, having served in all three branches of government. He served in the Legislature, was twice elected Attorney General, and will begin his fourth six-year term on the Supreme Court. He has twice previously served as Chief Justice.

In addition to his plans to continue the Idaho judiciary's national leadership in court administration, Shepard, noting that the Idaho court system had been ranked fourth in the nation by the American Judicature Society, set a new goal: "We can be number one, and we will."

MOST PRODUCTIVE DISTRICT JUDGE - DUFF McKEE

Moving large numbers of cases quickly is not an easy task in today's judicial world, where legal issues are becoming more complex, and where interim motions can consume days of legal research. But resolving large numbers of disputes quickly can mean that parents won't have to wait as long for a child custody decision, or witnesses' memories will not fade in a criminal prosecution. Productivity and quality are not mutually exclusive.

During calendar year 1986, one judge resolved more complex disputes more quickly than any other. Based on the number of district court filings, dispositions, hearings, and the average age of pending cases, Idaho's most productive district judge for 1986 was Fourth District Judge Duff McKee, of Ada County.

Finishing close behind Judge McKee were: Seventh District Judge H. Reynold George; Fourth District Judge Deborah Bail; and Sixth District Judge Peter D. McDermott. During 1986, these four judges were the busiest and most productive district judges in the state.

CHILD SUPPORT...

(Continued from Page 1)

changing society, with more single parent families, has forced public agencies all over the country to change the way they do business, leading to statutes allowing tax refund and wage withholding of support

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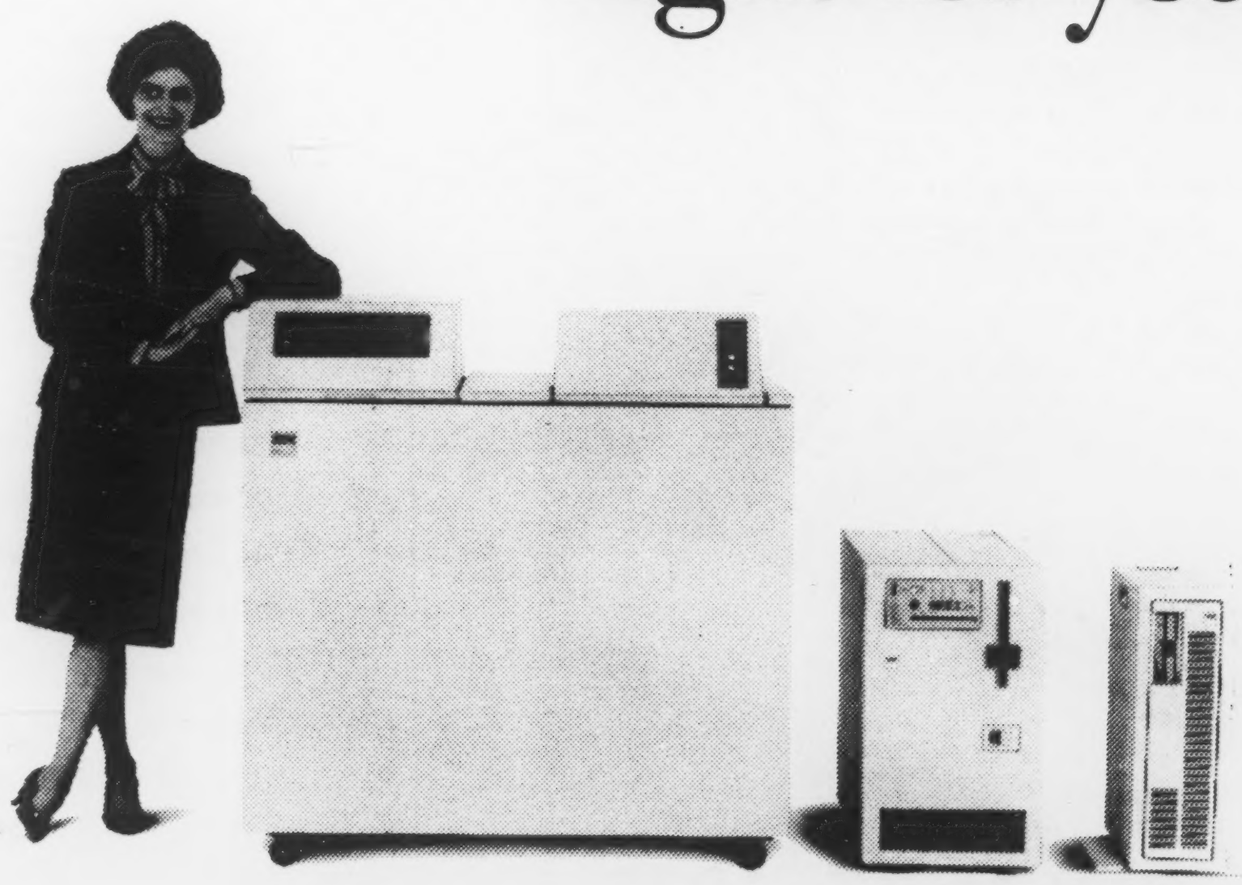
Which System/36 is right for you?



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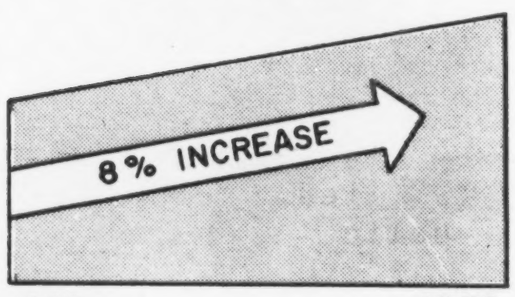
JUDGES INCREASE PRODUCTIVITY, REDUCE DELAYS

Although caseloads went up in 1986, Idaho's trial judges rose to the occasion, taking big bites out of backlogs and delays. With cooperation from public and private lawyers, district judges and magistrates scheduled status conferences, held pretrial settlement meetings, and backed each other up where multiple cases were set on calendars, in a statewide effort to expedite civil and criminal cases.

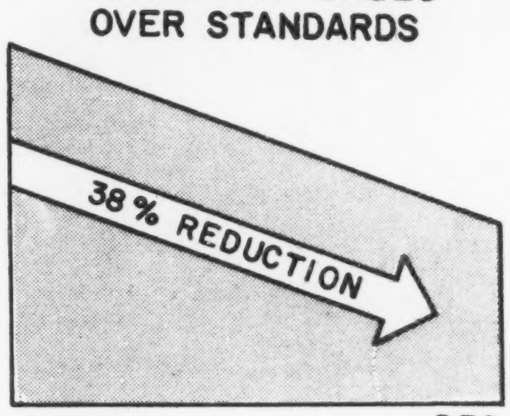
The results have been dramatic. While caseloads rose 4% in 1986, judges increased their overall dispositions by almost 8%.

DISPOSITIONS



District judges increased their dispositions by over 1,000 cases, from 10,443 in 1985, to 11,487 in 1986. Magistrate judges decided over 13,000 more cases, from 179,767 in 1985, to 193,460 in calendar year 1986.

NUMBER OF CASES OVER STANDARDS



Trial judges also continued their efforts to reduce unnecessary delays. In the last seven months of 1986, district judges and magistrate judges reduced the number of pending trial court cases which exceeded the Supreme Court's time standards by a staggering 38%!

Major improvements were achieved in the magistrate division, with all seven judicial districts contributing to reducing the number of older cases in the court system. Overall, magistrate judges eliminated more than 42% of the court cases which exceeded the various time standards.

Based on their 1986 performance, the leadership of Idaho trial judges in the national movement to eliminate unnecessary court delay seems secure.

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CHILD SUPPORT . . .

(Continued from Page 6)

payments, and more pressure on courts to speed up enforcement actions.

Time Standards

To help expedite support payments, Idaho trial judges in 1986 adopted a new time standard: all child support enforcement cases would be tried within 60 days from filing the petition, and would be decided finally within 90 days of filing. In just six short months, with judges and prosecutors throughout the state pitching in, the number of pending child support enforcement petitions which exceeded the new standard were cut by 70%!

Federal Initiatives In Other States

Other states are being buffeted by federal pressures to take child support enforcement hearings out of courts entirely, and to hand them over to administrative agencies, to speed the process. In some cases, federal bureaucrats are urging that welfare families have their support disputes decided outside the courts, raising serious equal protection questions. Fortunately, for the families and the children involved, Idaho's courts are ensuring that child support payments are reaching families a lot faster these days--without federal help!

MEDIATION EXPERIMENTS MAY HELP SOFTEN DOMESTIC BATTLES

Divorce court battles may be lessened, thanks to a new court program. A pilot program begun in 1986 in Ada County, and being considered in other judicial districts, offers divorced couples an opportunity to settle custody and visitation disputes out of court, with the help of a professional mediator.

Custody and visitation issues, often the most difficult to resolve when families split up, offer an excellent opportunity for the use of mediation as an alternative to formal court litigation, reports Fourth District Magistrate Judge Patricia Young. Young, who organized the pilot program in Ada County, describes the mediation program as voluntarily: divorced couples attend an orientation program which explains how the mediation process works, and then choose whether to attempt to work out their dispute through mediation, or to use the formal court process.

Judges seem to favor mediation for child custody and visitation disputes. Judge Young thinks she knows why: "We now have a statute based on the presumption that joint custody is in the children's best interest, but we haven't had a mechanism to show parents how to arrange a satisfactory joint custody agreement. I see mediation as such a tool."

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